

FCC MAIL SECTION

ORIGINAL  
FILE

PRIVATE  
SPEC

RM7669

FEB 11

Before Feb 7 1 56 PM '91  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

RECEIVED

MAR - 6 1991

Federal Communications Commission  
Office of the Secretary

RECEIVED BY  
In the Matter of )  
Amendment of Section 97.109 )  
to clarify the responsibilities )  
of licensees of stations under )  
automatic control in the )  
Amateur Service. )

#### INTRODUCTION

The author of these comments has held a FCC license in the Amateur Radio Service since November of 1973. For several years, I have operated an automatically-controlled station, pursuant to section 97.109, using "packet radio". For many of those years, I operated a packet bulletin board system, or PBBS. This PBBS, like hundreds of others throughout the world, allowed local amateurs to send private messages to other amateurs worldwide, or to send bulletins of interest to the amateur community or parts of it.

Ever since the use of automatic relay stations became popular in the Amateur Service in the mid 1970's, amateurs operating these relay stations have assumed that the Commission would not hold them responsible for the occasional relay of transmissions in violation of sections 97.111, 97.113, 97.115, and other rules involving the non-technical content of amateur transmissions. Procedures were adopted to prevent the frequent and routine abuse of the regulations, and to trace violations where possible, but the complete prevention of violations was considered impractical.

Recently, it has been reported that the operator of a PBBS in Virginia was sent a Notice of Apparent Liability, and several other PBBS operators in the northeastern U.S. were sent citations. According to these reports, the incident that triggered these violations was the relay of a message that the Virginia Beach FCC office felt was in violation of section 97.113(a). (the station that originated the message in question also was sent a Notice of Apparent Liability) The operator of the Virginia PBBS cited was reported to have deleted the message in question as soon as possible, but the Virginia Beach office saw his station retransmit the message before it could be deleted.

041

PRIVATE RADIO BUREAU  
SPECIAL SERVICES  
FEB 11 11 50 AM '91

This incident has severe implications for the Amateur Service. By holding the operator of a relay station under automatic control responsible for the non-technical content of relayed transmissions, the Commission essentially forces the operator to record all transmissions, and not retransmit them until he/she has the chance to review them for legality.

For PBBSSs, this is a relatively minor problem. It will result

Simply put, Part 97 of the Rules should be amended to ensure that, when a violation in non-technical content occurs, only the station originating the transmission should be liable for Commission sanctions. To that end, I propose the addition of a paragraph 97.109(f), to read as follows:

{97.109 Station control.

(f) When a station is being automatically controlled, the control operator will not be held responsible for violations of the following Rules, if the offending transmissions originate at another station and are being relayed by the automatically controlled station without change in their content:

97.101(c), (d)  
97.115

97.111  
97.117

97.113  
97.311

}

#### CONCLUSION

The Amateur Service is rare among Commission-regulated